

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Investigation into the Collocation Security)
Policies of Verizon New England Inc. d/b/a)
Verizon Massachusetts)
_____)

D.T.E. 02-8

**Motion of Allegiance Telecom of Massachusetts, Inc.
To Compel Responses to Information Requests**

I. INTRODUCTION

Pursuant to 220 C.M.R. 1.06(6)(c)(4), Allegiance Telecom of Massachusetts, Inc. (“Allegiance”), an intervenor in the above-captioned proceeding, hereby moves that the Department of Telecommunications and Energy (“Department” or “DTE”) compel Verizon Massachusetts (“Verizon”) to respond to certain information requests.

II. PROCEDURAL BACKGROUND

On April 12, 2002, in accordance with the Hearing Officer’s procedural schedule in this docket, Allegiance submitted its first round of information requests to Verizon. On April 30, 2002, Verizon submitted its responses to Allegiance’s first round questions.

Allegiance issued its information requests in order to elicit information from Verizon that would enable Allegiance and the Department to better understand the collocation security proposal submitted to the Department by Verizon on April 5, 2002. Allegiance also sought this information in order (1) to refine the scope of issues that it plans to raise in its prefiled direct testimony, which is now due to be

filed on May 15, 2002, and (2) to allow Allegiance to prepare its cross-examination of Verizon witnesses at evidentiary hearings scheduled in this proceeding.

Allegiance has discussed with Verizon its concerns regarding Verizon's answers to certain Allegiance discovery requests. On May 7, 2002, Allegiance, with the assent of Verizon, requested that the Hearing Officer extend the deadline for the filing of a motion to compel, to allow Allegiance and Verizon to the opportunity to continue to work to resolve its discovery dispute. On May 7, 2002, Allegiance's request for an extension of time was granted.¹

It is essential that Verizon be required to provide Allegiance complete answers to information requests. In the paragraphs that follow, Allegiance addresses two information responses from Verizon which fail to provide Allegiance with essential information – information which (1) goes to the heart of Verizon's collocation security proposal, and (2) will enable the Department, Allegiance and other parties to fully understand the scope and nature of what Verizon is seeking from the Department in this proceeding.

III. INFORMATION REQUESTS AT ISSUE

In this section, Allegiance lists each information request that is the subject of this Motion to Compel. Following each listed question, Allegiance presents factual and legal arguments in support of its request that the Department compel Verizon to respond completely to its request.

AL-VZ-I-1: *For each central office in which at least one CLEC is collocated, please provide the following:*

(a) *the address and any other identifying name of the CO;*

¹ It should be noted that the extension of time granted by the Department allowed Allegiance and Verizon to resolve disputes relative to a number of Verizon responses to Allegiance information requests. In particular, Verizon has agreed to supplement its responses to AL-VZ-1-4, AL-VZ-1-20, AL-VZ-1-21 and AL-VZ-1-24.

- (b) *a diagram of the floor plan of each CO, identifying (i) areas occupied by CLEC equipment only, (ii) areas occupied by Verizon equipment only; (iii) areas occupied by intermingled CLEC and Verizon equipment; (iv) the location of shared facilities, e.g., loading docks, staging areas, and restrooms; and (v) the path taken by CLEC employees, agents, and vendors to gain access to CLEC equipment and shared facilities;*
- (c) *a copy of the CO-specific security plan, if one exists. If one does not exist, please provide a copy of the security plan that otherwise applies to the CO;*
- (d) *the number of CLECs collocated at the CO;*
- (e) *the number of CLEC employees, agents, or vendors that have visited the CO in each month in which CLEC equipment has been collocated there, and the total number of such visits;*
- (f) *the number of Verizon employees, agents, and vendors who have visited the CO during those months, and the total number of such visits; and*
- (g) *the number of Verizon employees who are assigned to the CO on a permanent basis.*

RESPONSE: a) See attached for a list of COs where at least one CLEC is collocated.

- b) Verizon MA objects to this request on the grounds that it is unreasonable because of the overly broad scope of the data requested and the burden of compliance. Verizon MA also objects to this request on the grounds that it seeks information that is confidential in nature and is irrelevant, immaterial, and not reasonably calculated to lead to the discovery of admissible evidence.*

Typically, diagrams of CO floor plans, where readily available, include the name of the CLEC and the collocated space occupied by that CLEC by location and type of collocation arrangement. Such diagrams also identify the location and specific type of Verizon equipment, as well as the Company's designated areas of future growth. They are highly confidential, internal business documents used by Verizon for planning purposes to determine where physical collocation is available. Verizon MA provides CLECs with information regarding the amount of square footage in a CO available for collocation space on its Company website.

As a general practice, Verizon does not provide collocated carriers with copies of CO floor plans – even on a confidential basis. This is because the presence of collocated carriers in a particular CO is highly commercially sensitive, third-party data, which Verizon is not at liberty to disclose. Likewise, CO floor plans reveal competitively sensitive information about Verizon’s current business operations and anticipated growth.

The only exception to Verizon MA’s general practice of not disclosing CO floor plans is when a CLEC seeks to collocate physically in a CO where there is no longer available physical collocation space. In those limited cases, Verizon MA has allowed CLEC confidential access, on Company premises only, to the CO floor plan, and has submitted a diagram to the Department with its physical collocation waiver or exemption request on a proprietary basis in accordance with federal requirements. Disclosure of all CO floor plans in this proceeding is totally unwarranted and would be detrimental to collocated carriers and Verizon MA by providing an unfair competitive advantage to other service providers.

In addition, it is inappropriate and unnecessary to disclose this highly competitively sensitive information in this proceeding because it is not relevant to the issues to be decided in the case. This proceeding deals strictly with the issue of collocation security procedures. Moreover, all physical collocation arrangements (caged and cageless) in Massachusetts are currently located in secured space separated from Verizon MA’s equipment in the CO, with one exception.

Verizon MA recently determined that there is only one CO in Massachusetts where a cageless collocation arrangement exists that is located in an unsecured area and cannot be converted to a separate, secured space. This is also the only CO in Massachusetts where a CLEC has access to restroom facilities in unsecure space because Verizon MA’s equipment is intermingled. In all other collocated COs in Massachusetts, CLECs are provided reasonable access to restroom facilities in separate areas using secured pathways, i.e., secured from Verizon MA’s equipment. Likewise, current procedures provide CLECs with reasonable access to loading docks and staging areas, the use of which can be coordinated with Verizon for CLEC vendor equipment deliveries and assemblage during prearranged mutually agreeable time periods. Therefore, the information requested is irrelevant, unreasonable, and beyond the scope of this proceeding.

- c) *See attached. This document is also found on Verizon's website: <http://128.11.40.241/east/wholesale/html/pdfs/RSECOL00.pdf>, as reflected in the Collocation Handbook-Section 4, Security Guidelines.*
- d) *See Verizon MA's Reply to (a) above.*
- e) *The requested information is not readily available.*
- f) *The requested information is not readily available.*
- g) *See attached. This reflects only the COs where CO technicians are based and from which they are dispatched. It does not represent a fixed number of employees permanently assigned to a particular CO. This is because Verizon's CO workforce is assigned on a dynamic basis, which means that although technicians may be assigned to a primary CO, they may be dispatched to multiple COs depending upon workload.*

In its panel testimony, after presenting its latest collocation security proposal to the Department, Verizon's witnesses state "Verizon MA believes that these proposed security measures and enhancements are necessary *because of the present network architecture and configuration of equipment and facilities* in Verizon MA's COs and RTs." Verizon Testimony at 5 (emphasis added). Although Verizon points to the "present network architecture and configuration of equipment and facilities" as a primary basis for its collocation security proposal, Verizon has provided the Department and intervenors with absolutely no information regarding equipment and configuration. Simply put, if Verizon views its present equipment and facilities configuration as placing its system at risk, then, at a minimum, Verizon must establish how its equipment facilities are currently configured at its COs. Verizon's argument that this basic information is somehow not relevant to this proceeding is simply untenable.

Moreover, contrary to Verizon's statement in response to this information request, in seeking floor plans of each CO where at least one CLEC is collocated, Allegiance is not seeking to learn where

specific CLEC equipment is located. The floor plan need not identify specific CLECs; it need only show where CLEC equipment is located relative to Verizon equipment. Nor is Allegiance interested in learning where specific equipment is housed or specifics regarding Verizon's plans to expand in the future. Again, a CO floor plan which does not specify type of equipment (whether Verizon equipment or CLEC equipment), but indicates where CLEC equipment is located relative to Verizon equipment is sufficient for Allegiance's discovery purposes.

Based on conversations with Verizon regarding this particular discovery dispute, Allegiance understands that Verizon views the process of redacting its collocated CO floor plans as time consuming. Verizon also has informed Allegiance that its existing floor plans are not drawn "to scale", and, therefore, Verizon believes that such redacted floor plans would not be helpful to Allegiance.

Allegiance does not believe that production of these redacted CO floor plans is burdensome. Moreover, even if one accepts Verizon's positions regarding production difficulties and the value of the redacted CO floor plans, the Department still should require Verizon to produce said plans. First, it is impossible to assess the value of these floor plans unless they are produced. While it may be the case that these CO floor plans are not drawn to scale, they would certainly provide some evidence regarding the relative or approximate distance between CLEC equipment, Verizon equipment, and shared facilities.

Second, and far more importantly, if Verizon is not required to submit its collocated CO floor plans, then Verizon will have produced no information whatsoever to support one of its primary positions in this case, *i.e.*, "that [its] proposed security measures and enhancements are necessary because of the present network architecture and configuration of equipment and facilities in Verizon MA's COs and RTs." *See* Verizon Testimony at 5. Where Verizon itself has pointed to its current

network architecture and equipment configuration as the primary driver of its proposal to radically alter current collocation security procedures, Verizon should be ordered to provide evidence explaining just what it is about its equipment configuration that warrants change. It is not reasonable for Verizon to offer nothing in support of its position, and, instead, essentially ask the Department and intervenors to accept its position on faith alone. If Verizon is unwilling to produce the redacted CO floor plans described above, or is willing to produce only documents that it has censored beyond usefulness, there may be little choice but for the Department to require Verizon to set up tours of all collocated COs for Department staff and intervenors. That process would surely be far more time consuming than requiring Verizon to produce redacted CO floors plan that reflect, to a reasonable degree of accuracy, the “configuration of equipment and facilities” in its COs, *i.e.*, the very thing that Verizon claims threatens the security of the telecommunications infrastructure in Massachusetts. There are undoubtedly many different ways that Verizon can provide evidence with respect to the current status of its network architecture and configuration of equipment. Providing redacted CO floor plans appears to be a reasonable option. Providing no evidence whatsoever should not be on the menu of options for this proceeding.

Finally, Allegiance notes that it would be willing to enter a mutually agreeable non-disclosure agreement which ensures that these CO floor plans are used for purposes of this proceeding only and are returned to Verizon after the close of the case.

AL-VZ-I-5: *Please refer to page 19 of Verizon’s Panel Testimony where, in discussing alleged problems with the use of cameras for security purposes, the witnesses state: “since CLECs can access COs 24 hours a day, seven days a week, a minimum of four guards per collocated CO (or one per shift) would be required to provide real-time monitoring.”*

(a) *Please clarify what the witnesses mean by the term “per collocated CO”?*

- (b) *Has Verizon estimated the costs associated with real-time monitoring of COs where collocation occurs? If so, please provide an estimate of these costs, broken down by individual CO.*

RESPONSE: (a) *The term means a Verizon central office that has one or more CLEC physical collocation arrangement(s).*

- (b) *No. Verizon has not estimated the costs associated with real-time monitoring of collocated COs (e.g., costs for equipment hardware, software, communications facilities, staffing or supervision, etc.). See also Verizon MA's Reply to XO-VZ-1-6.*

Verizon's answer to AL-VZ-1-5(b) is nominally responsive, but its reference to its reply to XO-VZ-1-6 clouds the issue considerably.² In that response, Verizon objected to requests related to the costs of measures Verizon proposes "on the grounds that it is overly broad and unduly burdensome and seeks information that is irrelevant, immaterial and beyond the scope of this proceeding, as established by the Hearing Officer at the Department's February 25th Procedural Conference (Tr. 1:14-15)."³ Verizon responded further that information regarding the cost of its proposed measures "is not

² On May 8, 2002, XO Massachusetts, Inc. ("XO") filed its own Motion to Compel with respect to Verizon's response to XO-VZ-1-6. Where Verizon's response to AL-VZ-1-5 refers to Verizon's response to XO-VZ-1-6, Allegiance's arguments with regard to AL-VZ-1-5 understandably echo a number of arguments in XO's Motion to Compel. Allegiance also presents a number of distinct arguments with respect to the issue of cost in this section of its motion to compel. Considering that there are now two motions outstanding regarding Verizon's response to XO-VZ-1-6, and that Verizon answered information requests from other parties regarding cost also with reference to XO-VZ-1-6 (*see, e.g.,* Verizon responses to Qwest 1-22, 1-26, 1-29, 1-33, 1-47, 1-51, 1-52), there may be some benefit to seeking comments from all parties on the role that cost should play in this proceeding, and having the Hearing Officer clarify that role in a subsequent order on scope.

³ Verizon's reliance on the Hearing Officer's statements at the procedural conference is misplaced in two respects. First, the remarks were made before it became clear that Verizon would be filing a specific collocation security proposal in this proceeding, and that that proposal would focus entirely on measures for which Verizon expects CLECs to pay. The Hearing Officer did not impose a ban on any discussion of costs in her subsequent memorandum setting forth the procedural schedule and ground rules. The comments cited by Verizon, while perfectly reasonable in the context of the hearing as it progressed, do not have the legal weight of a ruling on the scope of the proceeding. Further, there is nothing inconsistent with requiring Verizon to file tariffs for any specific measures ordered by the Department, and considering whether those tariffs are "just and reasonable" in a later phase of this proceeding. Moreover, even if tariffs are not considered at a later stage of this proceeding, the Hearing Officer comments cited by Verizon in no way preclude consideration in this case of whether certain measures are, in general, cost justified, taking into account their potential impact on competition and their estimated cost relative to other available security measures.

readily available and would require an extensive special study.” Verizon Response to XO-VZ-1-6.

Verizon apparently views all discussion of costs as

being outside the scope of this proceeding or subject to its creative “extensive special study”

exception to the Department’s procedural rules. Verizon is wrong on both counts.

First, cost is always an issue in regulatory proceedings. Indeed, cost is embedded in the statutory “just and reasonable” standard by which the Department will assess Verizon’s security policies. Vote and Order to Open Investigation at 6. It cannot be the case that a measure may be imposed by an administrative agency and be found to be “just and reasonable” without any reference to its cost. The Department’s statute and 100 years of regulatory rate proceedings make such an outcome impossible. Verizon may believe cost is irrelevant because of its view that all of the costs to implement its proposed security measures should be borne by its competitors, making these measures “free” from the perspective of local exchange customers in Massachusetts. While this view may be internally consistent, there is no guarantee that the Department will acquiesce to Verizon’s desire to impose all new security costs on competitors. This view also ignores the fact that costs imposed on the network as a whole will eventually be borne by customers, as is always the case. If additional security measures raise costs for all CLECs, then some companies that are efficient competitors under the current regulatory regime will be marginalized or forced out, leaving fewer options for customers, a higher cost structure for all remaining competitors and, eventually and inevitably, higher costs for customers. Only Verizon would benefit from this result. Because of the potential impact on competition from the costs of complying with the security measures proposed by Verizon, cost must be an issue in this proceeding.

Finally, the Department should reject Verizon's tautology that any discussion of the costs of implementing its proposals will require "an extensive special study," which would be "unduly burdensome," and thus, no discussion of costs is appropriate in this docket. Verizon itself does not believe this argument. In response to Qwest's information requests, Verizon provided a rough figure for the per-CO cost of a card reader system (about \$30,000). Verizon Response to Qwest 1-22. While those costs surely vary from CO to CO, Verizon apparently did not need to perform an "extensive special study" to provide a helpful response. That is all Allegiance seeks: cost estimates for different collocation security methods – costs that will give the parties and the Department some basis for determining the effect of these proposed measures on competition, and whether such measures are the best use of the scarce resources at Verizon's disposal.

IV. CONCLUSION

If allowed to go into effect, the collocation security proposals presented by Verizon in this proceeding will have a profound impact on the ability of CLECs to operate and compete in Massachusetts. While Allegiance shares Verizon's and the Department's interest in ensuring collocation security – both before and after the events of September 11, 2001- it is important to note that nothing in the Department's order opening this proceeding relieves Verizon of its obligation to support its proposal by providing complete responses to legitimate information requests. Accordingly, for the reasons set forth above, Allegiance respectfully requests that the Department order Verizon to respond fully to the above-listed information requests.

Respectfully submitted,

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